

THE RAILROAD SITUATION IN FLORIDA

Open Letter From Mr. Drew, President Florida Railway, in which the Railroad Situation is Ably Discussed by One in a Position to Know

Live Oak, Fla., April 27, 1907.
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Tallahassee, Florida.

Sir: I have been informed that at this session of the Legislature it is considered generally a matter of political expediency for a member to advocate justice to railroad interests: and I should hesitate to request you to do so, if I did not believe that you would do so right before expediency.

For the proper regulation of railroads by confining their activities to proper purposes and for insuring an efficient service at reasonable rates, accorded to every patron alike, no stronger advocate can be found than myself. Especially opposed to that system of dishonesty, either dignified enough to term it business sagacity, or brazenly branded as theft, by regarding it as the law of the land, I should like to see the law so drastic that it would land in the penitentiary, all who receive as well as give rebates. And I can well appreciate that by the present system of operating in vogue on many railroads the requirement of dividends is of no significance to their public service; and as a consequence their profits are left to the attention of specious and inefficient employees, who even by the cheap rate for their services are over-paid for any consideration which they give to their duties or to the requests and complaints of the road's patrons. The official attention is so absorbed in working the margin of percentage in cost receipts, that those who provide revenues must content themselves with whatever measure of regard the management may have in reserve for them after that first bestowed upon their cigarette.

It is not the rate of pay by the railroads to their men that affects the public, as the Governor intimates in his message; but it is the class and character of the men themselves, employed because they are low in price, regardless of being so also in capacity. Raising a man's salary will not give him brains, energy or courtesy. I take it that these could be better served by giving to the Railroad Commission ample authority to employ only the best, but also responsible officer and the incapable or inattentive clerk, or other employee, at fault in each case; until the roads shall be purged of inefficient men, through necessity of employing better men, be forced to some standard of service commensurate with the power delegated to them by the State for operating and controlling the highways of traffic.

Such matters might indeed be fit subjects of legislation; but the thing of public advantage can be better secured by measures which seek merely to increase monetary liabilities and burdens of the railroads beyond those borne upon individuals.

Today, as every one knows, there are thousands of car-loads of freight waiting shipment in Florida (as elsewhere) and there are hundreds of shippers facing financial ruin, solely because the railroads cannot handle the traffic. But blind fury against the public service corporations, merely as such cannot build additional lines, or acquire and develop terminals, or produce equipment, all of which are the physical needs of the road and situation.

It goes without saying that to accomplish these and to develop the resources of this State make it absolutely essential to secure investment outside capital; and how this may be accomplished generally is shown by the fact which the present legislative session is having on the extensions and improvements projected by this company.

A few years since we organized the local ownership, which has always been maintained with interests thoroughly identified with the State, and carried through

measurably, a pioneer line into an undeveloped territory that was absolutely without transportation facilities of any kind whatever. By the direct result of our construction, as the first, and at that time only, railroad in two of the counties traversed (Lafayette and Taylor) there was, within four years, an increase of property values of over 76 per cent, or \$2,529,718.00.

With construction made under the general land grant laws, without seeking special legislative favor, and under an express reservation and offer of public lands by the Internal Improvement Fund Trustees for a line first to be constructed into this territory, our request for this proffered aid was met by the objection that we had not come up to requirements of a policy of that honorable body (as so termed by its Chairman). This we did not understand until later in the fact that the lands, which we considered we had fairly and honestly earned, were disposed of at private sale to interests identified with one of our powerful trunk line competitors. After that, a proposition was rejected by which we undertook to re-earn our rights to the moneys received by the Internal Improvement Board for these lands, by building additional mileage at a rate of compensation of less than one half of such moneys on the basis of acreage which the general land grant prescribed for each mile.

These are strictly personal incidents, so far as the State officials might deem them. I mention them to show that we have never received one cent's benefit from the State under its repudiated offer or otherwise. Apparently we did not have a proper appreciation of policies, being more intent upon the duties of our business than in conforming to the desires of the Board; nor have we haunted the legislative halls with requests for that justice which we considered we were denied.

We have stood alone as a railway enterprise held in ownership entirely within the State; and have carried forward our work and given the best service that strict personal attention and our limited resources could provide; and it is, to say the least, singular that after being denied the aid so expressly reserved and offered for a purpose actually accomplished by us, we should now find our undertaking to extend our properties by our own efforts, and as intended to create greater development of resources, afford additional facilities to congested traffic and add to the material and taxable wealth of the State, menaced by its impeding legislation.

By assiduous care we have created a record of fair returns for our operations, and by the acquirement of rights and terminal locations at deep water ports, with a satisfactory showing of traffic possibilities, we finally interested outside capital to finance the construction of a line several hundred miles in length, involving the expenditure of several million dollars for initial construction, and the creation of a valuable property with the attendant advantages that necessarily would accrue to the State and its people.

In face of all this I am in receipt of advices that everything must be held in abeyance until it can be determined what the temper of the country in general will develop, and particularly what the Florida Legislature will do, "now that it has joined the ranks of the corporation baiters."

Accustomed as they are in foreign countries to regulation in a far greater degree than that attained even by recent federal enactments, the parties in question could appreciate that fair and reasonable regulation would not be a real deterrent in investment for practical railroad operations; however, much it might affect

speculative conditions. It is legislation proposed and threatened by the several State legislatures now in session along the line of bills introduced into ours, that makes them hesitate as to the expediency of proceeding further until it can be ascertained what the real results will be.

So far as our enterprise is concerned the agitation will no doubt delay us many months as it is, and with most uncertain results; but looking beyond our individual interests alone (with disregard of which by the powers of State we are already getting accustomed) it is for the public as well as private value of all the enterprises so jeopardized that we ask you to do what you can to bring our representatives to realize what this may mean.

As to the employers' liability, act, if a man's own carelessness is no bar to his right of action for an injury consequent upon it, employers and their investments would not only be deterred from coming into the State; but those here would be speedily driven from business. I do not know the author of this bill; and I trust it would be no reflection on him to say that measures of this kind often find their first inspiration in the failure of some attorney to sustain a claim that has found more ready appeal to his sentiments than to his regard for the law, which in its fundamental rule of general right may to our particular interests sometime work an exception of apparent wrong.

I take it that the self-evident injustice of this measure will be so apparent that its ulterior effects would not have to be considered to compass its defeat. At any rate, if the Legislature of the State of Florida is so far prejudiced against principles of common right, that it would enact such a law, there would be no hope in "appeal from Phillip drunk" to Phillip sober."

As to the effort to increase taxation of public service corporations generally, there can be no reason found in present needs beyond the volume of present revenues. It is not the dearth of taxable items under present laws, but rather the equalization of the burdens already imposed, that should merit the attention of our lawmakers.

Under the present railroad tax law, we have indeed proposed to bring to the attention of the Legislature the operation given to it, whereby under a semblance of protection to the roads, in the co-ordinate judgment of a board for appraisal, the entire authority is arrogated to himself individually by one of its members. This I state upon written admission of another of the members of the board; and as directly contrary to the statement contained in the official report of railroad assessments.

But if this should be taken as a charge against methods of enforcement and individuals, rather than against the provisions of the law itself, it can yet be maintained that (as any reputable attorney will admit) the present statute is fatally defective, as directly violative of both Federal and State Constitutions in not providing for any right of review and equalization. That this has never been so questioned by the trunk lines, warrants an inference that they have never felt the injustice that the small roads do by valuation of their properties either upon a basis of intrinsic worth or relatively. The smaller ones generally do as they are bidden in abject submission; because it may be cheaper to suffer injustice than to combat it at law, the only alternative. Individuals, suffering under a sense of wrong in their assessments, have an opportunity to be heard before an independent body of review. The railroads have the empty privilege of making returns that the Comptroller is at liberty to

reject as not complete within his fancy; and as he may then proceed to sit in judgment upon his own acts under the actual or theoretical advice and assistance of the Attorney General and Treasurer of State, it is only reasonable to presume that he would not have to be an individual of especially dominating manner to have his wishes sustained in the absence of any right of appearance or showing by the railroads, either to admit or deny his conclusions.

I take it that it was never intended that the rights and property of corporations, any more than individuals, should be subjected to such arbitrary power of any officer of whatever degree. The practical working of this law can be found in the case of this Company, which last year had its taxes arbitrarily raised over 70 per cent without notice or an opportunity to be heard. And the extent of the information required by law to be the best obtainable may be better judged by the fact that lever cars included in our return were raised in absolute ignorance of their nature some seven hundred per cent. of present values and nearly five hundred per cent. of original cost some years ago.

It may be also remarked that there was no corresponding increase in the valuations, and consequent assessments, of the properties of trunk lines traversing in part the same territory. For instance, by comparison with the Atlantic Coast Line, our locomotives and rolling stock were actually appraised some 44 per cent. higher in corresponding items than theirs. That is to say, our small engines all acquired second hand (and some indeed from that very Company) several years ago, and presumably since deteriorated by use and age, were valued by so much more than their powerful modern machines. And, as you personally well know, the Atlantic Coast Line operates every day through the town of Live Oak several massive new locomotives that are each worth more than all of ours combined.

Our appeals for some adjustment, even by the grace of the official making such exactions, were met by a grandiloquent declaration of his undying purpose to stand between us and an assumed attempt to evade our just taxes. The only course left open was by resort to the courts; and while we have at all times been ready and willing to pay what in fairness we should upon the intrinsic values of our property and by equalization with the trunk lines, we must perforce be made an example of the evasion by corporations of their public duties. This we shall also have to stand for further in relation to the present tax, which is demanded to cover the same unreasonable impositions and inequalities.

Every class of property in the State is unquestionably of improper valuation and assessment with reference not only to other classes but also often in items of the same class; from the cow of the dear voter killed on the railroad, and for which he recovers fifty dollars and pays taxes to the State on valuation of five, up to the railroad itself, which may operate a trunk line with its vastly superior physical properties and earning capacity paying less on such basis than its weak connection. To illustrate the latter comparison, the Atlantic Coast Line with its heavy rail, its valuable terminal properties, its modern equipment carrying its enormous volume of traffic in tourist travel and high class freights in fruits, vegetables and the output of a phosphate field, none of which were tributary to our line, had its taxes placed only thirteen and seven tenths per cent. higher than ours on the valuation of physical properties, whereas its earnings per mile were approximately two and one third times ours. Should there be small wonder that our refusal to pay stirred the righteous indignation of the Honorable Comptroller of State.

If anything does or ever did need legislation, it is most assuredly the present methods of taxing the small and independent lines of railway. They need relief from undue burdens rather than to put more on them; and without this is done there is only one way of practical relief to them

under guidance of the Comptroller's system of assessment and the proposed additional charges and liabilities, and that is to become merged into the larger lines.

Indeed, nothing more conducive to that end could have been deliberately devised by the trunk lines; as the necessity produced by such a condition would force sacrifice of the smaller ones to whatever price the trunk lines might choose to offer, if indeed anything under the circumstances.

In my humble opinion there is nothing of more crying need for this State than a Tax Commission to intelligently study and formulate some plan of taxation for submission to the Legislature, and which would remedy at least a portion of the deficiencies and inequalities of our present laws. Under the practice at each session to reenact the prior revenue laws, its defects are perpetuated; and with all due respect to the members of the Legislature, the subject is one that cannot be properly considered in all of its phases within the limited time of a session. Evils that do appear should assuredly find remedy; but with the many instances of injustice perpetrated under the present law nothing less than a Commission, to carry its labors over the entire State and to study the laws in other states, could do full justice to the importance of this subject.

As to a franchise tax, where there are no exclusive privileges granted and protected by charter, it would be about as logical as a tax on the breath of an individual. If it is justified on the theory of recompense for the delegated power of eminent domain, it must be remembered that the law makes full compensation to the owner a precedent condition to taking his property by condemnation. The State, in the exercise of such power, stands on the side of the corporation and confers so much of its own authority for the public benefits from the service to be rendered. It has no proprietary interest in the property taken; and it is therefore hard to understand by what process of reasoning it should compel payment to the property owner in full measure, and then exact from the corporation, and to its own use, an endless charge. And question of such theory may be further made in instances, where, as with this road, the power of eminent domain has never been invoked. In this like other matters the State has not exercised its good offices directly for our benefit.

I understand that the first franchise bill is to be withdrawn and a substitute introduced providing for a specific tax of two per cent. gross income of the railways in addition to the burdens of the general assessment. If so the last state is indeed worse than the first.

An entire tax (and not a supplemental one) could not be objectionable from the standpoint of either the corporations or the State, if properly placed upon gross earnings. It should, however, provide some fair and reasonable adjustment by rating the amount of such tax in fair proportion to taxes paid by other properties and be equalized between properties of the same class but of different conditions. A fixed percentage without regard to the earning values or physical needs of the property for betterment or maintenance would work injurious discrimination against the smaller and poorer lines that are endeavoring to build up.

Every tax is the last analysis and necessarily a charge upon income; and whatever the method of its imposition it can only be equalized on the basis of such charge. In this light the present tax is such against the railroads' earnings; but in the latitude of the law it can easily become a means of oppressive discrimination.

Taking again, as the basis of comparison, the assessment of the Atlantic Coast Line, as a property with values of which the Honorable Comptroller may be somewhat more conversant by former service than with that of the Florida Railway which he has never probably seen, the ratio tax values placed by him in proportion to respective earnings shows as follows:

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